

# GIBSON, DUNN & CRUTCHER LLP

## LAWYERS

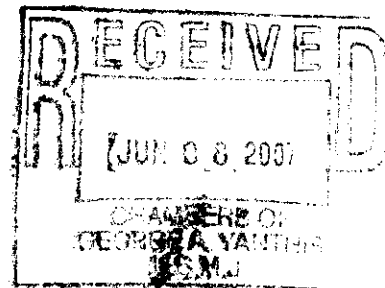
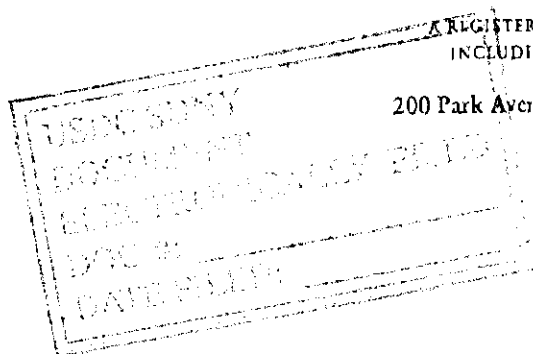
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June 8, 2007



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### VIA FACSIMILE

Honorable George A. Yanthis  
United States Magistrate Judge  
United States Courthouse  
300 Quarropas Street, Room 118  
White Plains, New York 10601-4150

*George A. Yanthis*  
Date: 6/11/07

Re: *In re Veeco Instruments Inc. Sec. Litig., 05 MD 1695 (CM) (GAY)*

Dear Magistrate Judge Yanthis:

I am counsel to Defendants in this action. I write in response to Ms. Broderick's June 8 letter concerning the date on which Lead Plaintiff's accounting expert, Robert Berliner, will submit his supplemental expert report.

Defendants' request that the Court order Lead Plaintiff to submit Mr. Berliner's supplemental expert report on June 11 is entirely reasonable. Even if Defendants receive the report on that date, counsel will have only two business days to review the report prior to Mr. Berliner's deposition on June 14. Lead Plaintiff's proposal, on the other hand, would leave counsel for Defendants just one day to review the report.

Ms. Broderick's reasons for seeking an extra day are not persuasive. First, Lead Plaintiff's counsel did not have to complete their review of Defendants' supplemental document production prior to Mr. Berliner beginning work on his supplemental expert report. Ms. Broderick could have provided documents to Mr. Berliner and his staff on a rolling basis or simply provided Defendants' entire supplemental document production to him. In any case, counsel's need to review the documents apparently was not the issue here. Ms. Broderick essentially concedes that Mr. Berliner and his staff had no intention of working on his supplemental expert report prior to the end of May because of his vacation plans. That is not a

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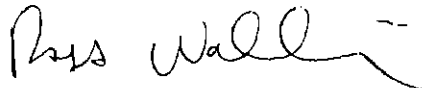
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sufficient reason to penalize Defendants by allowing us only one day to review Mr. Berliner's supplemental report before his deposition.

Second, Ms. Broderick suggests that the preparation of Mr. Berliner's supplemental expert report is complicated and time-consuming because of the difficulty of "piec[ing] together" the facts related to Veeco's restatement. This work should have been (and almost certainly was) done months ago. The vast majority of the workpapers and documents relating to the restatement were produced *over nine months ago*. Moreover, Lead Plaintiff deposed various Veeco employees with knowledge about Veeco's restatement (such as Mr. Reifert, Mr. Kieman, Mr. Rein and Mr. Braun) in February and March of this year. Lastly, this Court ruled for Defendants with respect to Lead Plaintiff's motion concerning the search terms used by Defendants in connection with their supplemental document production. Thus, Ms. Broderick's assertion that Lead Plaintiff should be given extra time to submit Mr. Berliner's supplemental expert report because the search terms were "far too narrow" should be rejected out of hand.

Accordingly, Mr. Berliner should be required to submit his supplemental expert report by June 11.

Respectfully submitted,



Ross Wallin

JRW/cry

cc: Arthur Stock, Esq.  
Carole A. Broderick, Esq.  
Phyllis M. Parker, Esq.  
John A. Herfort, Esq.  
Robert F. Serio, Esq.